

November 29, 2006

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Secretary

Federal Communications Commission

445 12th St., S.W.

Washington D.C. 20554

Re: Comment Submission in MB Docket No. 06-189

The Hispanic Information and Telecommunications Network, Inc. (HITN) appreciates the opportunity to provide comments to the Federal Communications Commission (FCC) regarding the difficulties independent television networks have in gaining carriage on multi-channel video systems. HITN is a private, non-profit organization, established in 1983 with the mission to advance the educational, social, cultural, and economic aspirations of Hispanics in the U.S. and Puerto Rico through emerging telecommunications and communications technologies. Its primary activities include: HITN-TV, a Spanish language public interest, educational television network, HITNet, a multimedia distance learning technology service provider, offering a network of non-commercial telecommunications facilities through Educational Broadband Service (EBS) spectrum to organizations in

the U.S. and Puerto Rico; and a wireless partnership with Clearwire. HITN is also a provider of distance learning telecommunications capacity and internet access via satellite to schools and libraries in Puerto Rico through the e-Rate program.

HITN-TV was created in 1987 as the first Hispanic public interest educational television network in the U.S. Today, HITN-TV is a unique Spanish-language satellite and cable network in the U.S. available in over 15 million US households. It remains the first and only Latino managed and controlled public interest television network offering educational, enriching and empowering content to the nation's largest minority group and to all who share an interest in Hispanic news, information and culture.

HITN does not only strive to provide educational programming to the Latino community but strives to increase the awareness of the Latino culture to non-Hispanics. The HITN series "Destinos" offers English speakers the opportunity to acquire speaking, listening, and comprehension skills in Spanish. "Corriente Cultural" is an educational series used within high school classrooms which highlights the cultural contributions of Latinos. Our daily live call-in show "Diagolo de Costa a Costa" brings Hispanics into a lively conversation with business, community and cultural leaders. Some of our most popular programming has to do with financial literacy, educational

opportunity and immigration law and policy. We provide timely access to leaders and engage in dialogue in a way that is unavailable elsewhere. Our network is one of the few sources of English as a Second Language (ESL) and General Equivalency Diploma (GED) programming for Spanish speaking Americans. Our network has also been honored with Beacon awards for community and educational programming from the cable industry.

With the support of the New York City Council and the State of New York, HITN opened a state-of-the art multi-million dollar production facility at the Brooklyn Navy Yard in 2005. The Brooklyn facility connects HITN to every mode of communications. In addition to the production and broadcast operations of its television network, HITN has the capability to use wireless, broadband and satellite technologies to set up ad hoc networks to engage and connect participants in project events at remote sites.

Video Market

Hispanics households are a major market opportunity for providers of video and high speed internet services; yet, the needs of Hispanic families are often ignored, crowded out or placed out of reach in premium programming tiers. In the video market, the continued consolidation of the video content and distribution profoundly affects the availability of independent content,

especially content serving the educational and cultural needs of Hispanic families. Content providers affiliated with the large broadcast and cable providers dominate basic tier offerings of cable systems around the country. That leaves little room, if any, for independent, minority or new networks.

Research shows that the Hispanic community strongly desires Spanish Language educational and cultural programming. As a non-profit network, HITN-TV has been providing this type of programming for nearly two decades and has been very successful on satellite and more recently Telco platforms, it has been given virtually no access to basic tier cable customers.

As a result of media consolidation, cable and broadcast owners have expanded their ownership of multiple channel blocks and have used their market power in controlling “must have” channels such as local broadcast content and popular cable channels to tie, bundle and price those channels in a manner that requires multi-channel video providers (MCVPs) to take channels of limited interest to gain affordable access to popular content. The cross ownership interests of many cable operators in content packages, also creates an economic self interest for the largest MCVPs to raise content prices to their own systems and competitor systems as well as consumers.

The problems of owning both content creation and distribution are not new. Theater ownership and movie production was once separated under anti-trust rules¹. Such an extreme separation is not yet required, but meaningful action must be taken to protect the competitive interests of consumers and diversity interests of society in the face of continuing media consolidation. The FCC must ensure that there is space on the basic cable tiers for unaffiliated independent program providers like HITN-TV. HITN-TV believes that a dispassionate look at the MCVP market will reveal actual and threatened discrimination against independent channels has eerie parallels to the improper “block booking” of studio owned movie theaters. HITN-TV recommends that the FCC seek a structural remedy by requiring that a meaningful portion of the basic and family tier capacity is available for independent, new and diverse content producers who are not owned or co-owned by broadcast networks or multi-channel video providers. Such action would not dictate content to multi-channel video providers, but would address the economic realities of media consolidation and the FCC’s mandate to “promote competition in cable communications” and to “provide the widest possible diversity of information sources and services to the public.”²

A Tale of Three Technologies

¹ See, *U.S. v. Paramount Pictures, Inc., et al* 334 US 131 (1948)

² 47 U.S.C. 521

The availability of alternative video platforms has been a positive development for HITN-TV. However, the existence of alternate platforms is in and of itself not enough, since cable and broadcast entities employ similar leverage strategies to tie popular channels with other channels controlled by the broadcast and cable industry.

On Satellite, HITN-TV has been able to attract its largest national audience. Our telephone call-in programs demonstrate that we are reaching American Latinos in virtually every corner of the nation. We are often surprised at the geographic diversity of our callers. It validates our belief that HITN-TV provides a very valuable and desired service to our target audience. HITN-TV is carried as a non-profit public interest channel on both the Dish Network and DirecTV. DBS satellite providers are required to set aside a portion of their capacity for public interest programming. This arrangement has provided HITN-TV an opportunity to bring much desired educational content to serve the broad national Hispanic community.

On the DISH network HITN is available to virtually all subscribers and is available in the basic tier of channels as well as the Spanish language tier. The DISH network is to be applauded for its commitment to educational programming and Latino Americans for implementing the set aside program in a way that makes HITN-TV available to all viewers.

On DirecTV, our network is available as part of the Para Todos Spanish Language Tier as well as to subscribers using the DirecTV elliptical dish equipment. Unfortunately our signal is one of the few public interest channels not available to all DirecTV subscribers. HITN-TV has requested that DirecTV transfer carriage to a satellite which is available to all subscribers. While we remain hopeful that our requests will be timely granted, we have been told that capacity constraints prevent an immediate change in our satellite position. It would be helpful for the FCC to provide guidance on this point. As DBS providers increase their overall channel capacity, their public interest obligations should expand proportionately. Capacity made available to public interest programmers should be of a quality which is capable of reaching all subscribers, unless the public interest content provider elects to narrow its distribution. First priority should also be given to those public interest programmers that are unaffiliated with a broadcast or cable entity.

Our experience with emerging Telco video providers has been largely positive. HITN has reached carriage agreements with both Verizon and AT&T. We look forward to developing new relationships with other tel-co platform providers. We are pleased that Verizon has recently committed to HITN-TV that it will make our programming widely available to its

subscribers. We are also in productive discussions with AT&T to expand the current availability of HITN-TV. It is notable that negotiations with both entities, while not simple, were considerably less difficult than those with established cable providers. It is also notable that both emerging Telco providers have little if any content/distribution co-ownership. HITN has been supportive of video franchise reform precisely because it creates new platforms which give access to viewers. The willingness to carry HITN-TV is also a positive sign of commitment to Hispanic families.

While carriage agreements on competitive Telco and DBS platforms are positive developments, they are not enough to ensure the diversity of media voices or the type of content competition which can keep consumer video prices in check. It is unlikely that independent public interest providers would have an opportunity to reach a national audience but for the DBS public interest set aside program. Emerging Telco platforms will reach a small portion of the total video market for many years to come. One of the most beneficial aspects of carriage agreements with DBS and emerging Telco providers is that national agreements are in fact national agreements. A national agreement with a cable provider is essentially a “hunting license” to sell your programming to local cable providers on a market by market basis. Once cable operators position “must have” channels with “must take” channels, there is no room left for independent voices. Only those

programmers with cable or broadcast ownership seem to be able to achieve true national distribution via cable.

Digital Ghetto

Cable remains the most important access point to viewers. With nearly two decades of experience, we have encountered a profound reluctance of cable operators to include HITN's Spanish language educational programming in the basic tier. While we have had success in being included in digital cable Spanish language tiers, we find our programming put beyond the reach of many Hispanic households. Digital service is more expensive, requires separate set top boxes for each TV and has a way of segregating an audience in "digital ghetto." Hispanic Americans seeking the valuable educational programming offered by HITN-TV should not be required to purchase special equipment to receive our network on any video platform. English speaking viewers have an array of educational offerings provided as part of basic tiers. It is not unreasonable to ask that at least one independent Spanish language educational option be available to all subscribers.

Spanish Language Programming Is Not Just for Hispanics

While HITN-TV's programming is predominantly in Spanish, we do provide programming that is bi-lingual or in English. We are also exploring new English accessible programming options. We seek to serve the Hispanic Community and all Americans interested in Hispanic life, culture and news. Over the years we have encountered a belief among multi-channel video providers that Spanish language programming is only of interest to native Spanish speaking viewers. Our experience and research demonstrates that is not true.

Spanish is the most studied foreign language in American schools and universities³. The Hispanic market is the fastest growing market in the United States and Spanish speaking countries are among the nation's most important trading partners. Intermarriage between Spanish-speaking and non-Spanish speaking individuals and non-Hispanic families adopting children from Spanish speaking countries grows on a daily basis. Even in Hispanic households, it is not unusual to have a generational split between English and Spanish dominant speakers. The universe of viewers interested and seeking access to the type of programming carried on HITN-TV is much larger than Spanish speaking households. Making programming like HITN-TV widely available offers all viewers a window on the Hispanic life and

³ See Languages of the World, The National Virtual Translation Center, Washington, DC www.nvtc.gov

culture and an opportunity to learn and refresh both English and Spanish language skills.

HITN-TV is one of the few if not only broadcast channels serving those interested in Latino and Puerto Rican music, arts, literature and culture. It is the only channel of its kind providing meaningful amounts of programming with closed captions and video description. Our network is one of the few to give regular coverage to the activities of the United States Congressional Hispanic Caucus, the National Caucus of Hispanic State Legislators, the Hispanic Chamber of Commerce and the Organization of American States. We also provide unique insight into the workings of the United Nations and news from Spanish speaking countries. This coverage, in addition to our schedule of family friendly educational and cultural programs is precisely the type of content which should be widely available to all Americans. We appreciate the forward looking approach of DISH Network, and Telco platform providers who understand the importance of better serving the Hispanic Community by making our educational programming widely available to their viewers.

Simply put, HITN-TV and other independent programmers provide an important and needed content which is desired by Americans and not available from consolidated media. The FCC should take strong action to

ensure that independent voices are not squeezed out of the media landscape. Independent channels like HITN-TV promote diversity and competition.

CONCLUSION

HITN-TV appreciates the FCC's interest in the plight of independent programmers. We are a serious non-profit broadcaster, providing a much needed service a growing population of viewers. While we value the partnerships we have developed with satellite, cable, and Telco multi-channel video providers, we have over the years experienced a crowding out of opportunity. We believe it is in the public interest to ensure that independent programmers have a realistic opportunity to reach a national audience. It is in the public interest that channels like HITN-TV are widely available in the basic tier. Media consolidation has concentrated the sources of video content into fewer and fewer hands. We strongly recommend that the FCC take action to structurally ensure that multi-channel video providers reserve some meaningful capacity for programmers not owned or controlled by cable or broadcast entities.

